Crown Land Administration Principles

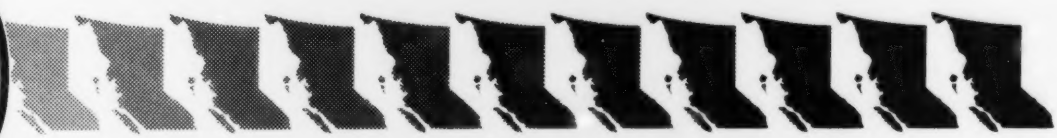
Occasional Paper No. 7

Revised: September, 1989

Province of British Columbia

Ministry of Crown Lands
Land Policy Branch

BC Lands



Crown Land Administration Principles

Occasional Paper No. 7

Revised: September, 1989

Province of British Columbia

Ministry of Crown Lands

Land Policy Branch

90-01340/

CANADIAN CATALOGUING IN PUBLICATION DATA

British Columbia. Land Policy Branch.
Crown land administration principles

(Occasional paper, ISSN 0827-7354 ; no. 7)
Previously published: Land Programs, 1984.
ISBN 0-7726-1023-1

1. Crown lands — Government policy — British Columbia. 2. Land use — Government policy — British Columbia. 3. British Columbia — Public lands. I. British Columbia. Land Programs Branch. Crown land administration principles. II. Title. III. Series: Occasional paper (British Columbia. Land Policy Branch) ; no. 7.

HD319.B7B754 1989 354.7110082'326 C89-092250-0

PREFACE

This paper contains thirteen principles which underlie all of the Ministry's strategic and operational policies governing Crown land use.

The information is based on the *Crown Land Administration Manual* of the Ministry of Crown Lands. The *Manual* establishes policies and procedures by which Crown land under the Ministry's jurisdiction is administered in the public interest.

Contents

1 Find the most suitable use 1

2 Minimize conflicts and incompatibility 2

3 Contribute to the provincial economy 3

4 Use the land efficiently and effectively 3

5 Support community development, public works, and institutional uses 4

6 Maintain a high-quality environment 5

7 Protect important physical and biological features ..5

8 Allocate and dispose of Crown lands responsibly 6

9 Carefully conserve and manage aquatic lands 8

10 Cooperate with other government agencies 8

11 Allocate and use Crown lands fairly 9

12 Administer Crown lands fairly 10

13 Retain options for future land use 11

In British Columbia, the Ministry of Crown Lands holds, allocates, administers and protects Crown lands in the public interest. This document outlines the thirteen principles that guide the Ministry's land use programs and policies.

1

Find the most suitable use

Ever-increasing demands on the available land make it necessary for the province to seek out the most effective and appropriate use of Crown lands. The Ministry sees this standard as ensuring the "highest and best use" of the land. In judging highest and best use, the Ministry asks several questions: Biophysically, what is the land most suited for? What uses of this land are the most appropriate for our social and economic needs?

In assessing the wisest land use, the Ministry uses several means:

- the referral of land applications and proposals to other agencies and local governments for suggestions and comment
- the development of the resource management programs by the Ministry and other government agencies
- an analysis of economic indicators, social requirements, and the potential of the land.

Often this process involves a balancing act. The Ministry may simultaneously be making choices between competing uses; ranking different uses based on their appropriateness in a given land area; considering conflicts with adjacent uses; and holding back some lands for future options. At the same time, the Ministry must evaluate the costs and benefits of potential uses.

The underlying principle is that Crown land is a limited and valuable resource, and that allocation according to the highest and best use will generate the greatest benefits for all British Columbians.

2

Minimize conflicts and incompatibility

Conflicts over land use tend to increase as population increases and demands on the land base escalate. The presence of conflict tends to reduce the benefits of Crown land to all users, and often leads to costly and time-consuming legal actions and boundary adjustments. Although certain compromises will always be necessary, conflicts over adjacent uses can be minimized by paying attention to the terms and conditions under which the land is allocated. The Ministry tries to allocate uses so that they are compatible with the biological and physical environment, and with adjacent uses.

To minimize conflicts and incompatibility, the Ministry uses the concept of "most suitable location" for each type of Crown land use. Where possible, incompatible uses are separated, and compatible uses are grouped or amalgamated.

The most effective mechanisms for reducing potential conflicts are the planning projects of the Ministry and other agencies. In areas of long-established use, the Ministry generally relies on the recommendations of other agencies. Applications and proposals are reviewed by these agencies to come up with potential areas of conflict, and to incorporate the concerns of adjacent users and others.

To help decide what is compatible use, the Ministry uses the planning and zoning initiatives of local governments. In some instances, the Ministry also establishes land reserves, to reduce conflicts by providing only for single use or restricted use of Crown land. Compatibility of uses is a primary objective of the Ministry in its land allocation process.

3
Contribute to the provincial economy

The mandate of the Ministry of Crown Lands is to encourage the use of Crown Land for a variety of purposes that will contribute to economic diversification. Commercial ventures, primary and secondary industries (including tourism) and other vital uses are sustained in large part through the environmentally sensitive use of Crown land. The Ministry's objectives are to maintain the relative health of the economy, and to achieve provincial objectives of self-sufficiency in food, resources, and energy production. To meet these objectives, the Ministry balances the need for uses that benefit the citizens of the province with the need to maintain economic stability and diversity.

The use of Crown lands for commercial, industrial, and recreational uses provides financial support for the provincial economy. Crown lands are generally used in this way when private land is not readily available for such uses. The Ministry follows this principle through its tenure provisions — seeking to provide the security necessary for the long-range planning and financial commitments that are critical to most commercial and industrial ventures.

Consideration of the economic benefits to be derived from certain types of use is a major factor in the Ministry's land use decision-making process.

4
Use the land efficiently and effectively

The diverse and escalating demands being placed on the province's land base call for efficient and effective use of Crown land in the public's interest. *Efficient* use means the allocation of only as much land as is necessary to ensure that the particular use works satisfactorily. *Effective* use assumes a commitment to use the land in a timely manner for its designated purpose. Generally, effective use is synonymous with intensive management or diligent use of the land.

In its tenure agreements, the Ministry writes specific provisos to ensure efficient use of Crown land. These provisos may specify the term and conditions of tenure, and encourage integration of uses, where possible.

To encourage effective use of the lands, the Ministry may request its users to agree to conditions such as:

- performance guarantees
- clean-up guarantees
- management plans.

A management plan may be administered, under agreement, by other agencies that have specific expertise in the management of a particular resource associated with the land.

5

Support community development, public works, and institutional uses

Projects and developments that benefit the general public or local communities are seen as important uses of Crown land. The Ministry is committed to the principle of using Crown land for community projects, parks, public works, and institutions. This principle recognizes that Crown land can be an asset in making such projects and services possible, and in enhancing the development of communities.

The Ministry supports projects that will benefit the public by providing Crown lands for such uses at nominal costs. When lands are transferred without rental or payment, provisions are attached to the transfer agreement, ensuring that the land is always used for the purposes for which it has been donated.

Such land allocations are made in close cooperation with local government land use planning guidelines and follow local zoning regulations.

6

Maintain a high-quality environment

Protection of environmental quality is a major consideration in all of the Ministry's land allocation decisions. The actual responsibility for environmental protection rests primarily with the Ministry of Environment. At the same time, agencies such as the Ministry of Forests, the Ministry of Parks, the Ministry of Crown Lands, and certain federal agencies also have major responsibilities for maintaining environmental quality in British Columbia.

The Ministry protects environmental integrity when allocating Crown lands by paying close attention to the physical and biological environment. The primary goal is to ensure that, wherever possible, land use tenures do not conflict with natural physical processes, and do not significantly disrupt ecological systems.

Where disruption is a possibility, or cannot be avoided, the Ministry tries to minimize adverse effects on the environment. The first step is to assess the possible impacts (through formal and informal liaison with other government agencies responsible for health and environmental protection) and to design mitigation strategies. The next step is to incorporate special conditions and provisos in the land tenure agreement.

7

Protect important physical and biological features

Principle 6 stated that a major consideration in all land use decisions is to maintain environmental quality. Going a step beyond, Principle 7 states that certain unique, representative, and sensitive physical and biological features on Crown land may warrant special consideration.

This principle comes into play when areas and sites containing significant natural features are reserved by the Ministry. Such areas may be reserved as "environ-

mentally sensitive sites" so that the land cannot be allocated for another use. These areas may later be established as ecological reserves for the preservation of unique or representative features for scientific and educational purposes: for parks, greenbelts, or maintained as reserves or designated areas.

In a land reserve or designated area, only uses that are compatible with the biophysical characteristics of the lands are permitted. The Ministry may also transfer certain significant areas to other agencies for regulation and management, for example, to the federal Department of Fisheries for salmonid enhancement, or to the provincial Ministry of Environment for wildlife management.

8

Allocate and dispose of Crown lands responsibly

The Ministry is committed to the responsible allocation of Crown land. This principle is a reflection of the government's interest in ensuring the highest and best use of Crown land. Responsible allocation is becoming increasingly necessary due to escalating demands on the land base.

One objective of planned, responsible allocation is to minimize potential negative effects of Crown land allocation decisions on future land uses. Planning also provides a wider context for considering the relationships among uses, so that only the most suitable areas are designated for a given use.

Assessment of the land base and the demands being placed upon it, and determination of the uses that are most suitable and appropriate for given locations, are prerequisites to land allocation.

Many agencies have a land or resource management function. Where possible, the Ministry tries to use and complement the planning programs and projects of

other agencies. More importantly, the Ministry's own Crown land management functions provide a framework for identifying opportunities for Crown land, and for making dispositions in an orderly and rational manner. The Coastal Resource Identification Studies (CRIS) for aquaculture opportunities, and the Backcountry Recreation Identification Study (BRIS) are examples of planning for integrated Crown land use. Public involvement is an important part of this process.

Through planned resource management, forethought can be given to the direction and extent of development. Sensitive environmental areas can be identified and protected, and user conflicts can be reduced. Planning is ultimately reflected in the adjudication of applications for Crown land. Such decisions are made in compliance with land use designations contained in recognized land use plans. This approach has several advantages:

- Applications can be referred and cleared in advance.
- Marketing can be timed to meet demand or to preserve future options.
- The Ministry can provide better service because of lower administrative costs and fewer delays.

Where large-scale or long-term planning is not feasible, the Ministry attempts to ensure the most appropriate use and locations by basing the land use decisions on other criteria: inspections, site evaluations, referrals of applications to other agencies, and public advertising of applications. These processes are ongoing, and allocation decisions are subject to periodic review and updating.

9

Carefully conserve and manage aquatic lands

The Province recognizes the value and uniqueness of aquatic lands. Aquatic lands are recognized as being a public resource for the use and benefit of all British Columbians, present and future. They have significant potential for a variety of recreational, industrial, commercial and residential uses, and are therefore deserving of special management.

The Ministry upholds this principle by offering only temporary tenure on aquatic lands, rather than permanent disposition through sale. Environmental considerations often assume special significance in decisions about the allocation of aquatic lands: The areas where the land and water meet are often sensitive and fragile environments, supporting rich natural processes and ecosystems.

As well as paying close attention to the type of tenure and its duration, the Ministry uses its referral and planning processes, and the planning initiatives of other agencies in the management and administration of aquatic lands.

10

Cooperate with government agencies

The uses of Crown land are many and varied, and the number of federal, provincial, and local agencies involved in land use and resource management is great. Consequently, the Ministry encourages and fosters inter-agency coordination and cooperation in Crown land allocation decisions. This integration of interests helps develop the broadest possible information base on land use options, impacts, potential conflicts, and the requirements and aspirations of users.

Inter-agency coordination and cooperation is enhanced through a system of referrals — a consultative process designed to assist the Ministry in making its land use decisions. Under this system, applications for Crown

land are reviewed by other agencies, local governments, and special interest groups, who also have responsibilities for, or an interest in the management of Crown lands and resources. The Ministry may also involve agencies with particular resource or land use expertise in the actual management of such lands (for example, the Ministry of Forests for grazing tenures).

This involvement of outside agencies is accomplished through various administrative mechanisms. For example:

- transfers of administration of Crown land
- the assignment of management responsibilities
- inter-agency planning projects
- inter-agency agreements.

Such arrangements contribute to the effective management of Crown lands, and to ease and efficiency of administration. Most importantly, they result in allocations that are sensitive to the specific requirements of other users and agencies.

11

Allocate and use Crown lands fairly

Crown lands are allocated and managed by the Ministry as a public trust. This principle implies a recognition that the overall rights of the public with respect to Crown land acquisition and use must be ensured. An important part of this principle is to ensure equity in the allocation process. Equity means that all citizens of the province are to be treated in an equal manner, without preference or bias. In recognition of this principle, all citizens have equal rights in the Crown land application and allocation process, within the framework of eligibility requirements for specific types of Crown land use.

12

Administer Crown lands fairly

The Ministry of Crown Lands operates under the authority of an elected government, which is empowered to make decisions for the people of the province. A Minister of the Crown is empowered to administer the statutes assigned to him. Policies to guide decision-making are developed with attention to the principles of administrative fairness, along with other public interest considerations.

Administrative fairness principles in Crown land administration are achieved by the Ministry through a variety of mechanisms:

- Crown land is administered under the statutory basis of the *Land Act*.
- The Land Administration Manual provides structured criteria for the exercise of discretion in decision-making. The policies and procedures outlined in the Manual are open to the public.
- There are opportunities for meaningful participation by the public, government agencies, and local governments in the decision-making process. Examples include requiring applications to be publicly advertised, use of the application referral system, and Crown land opportunity studies.
- There is a public Record of Decision, published in the *British Columbia Gazette*, which documents the decisions on Crown land applications. In addition, written reasons for decisions and other information, including tenure agreements, are on file in Ministry regional offices. These are available for public viewing.
- There are application and tenure review procedures for resolving conflicts which allow input from the public. This includes the public's right to protest an application for Crown land.

- Applicants whose applications are not approved are given written reasons for the decision.
- Applicants have a right to appeal the decision.
- Administrative fairness practices are periodically monitored through land program policy reviews. There are opportunities for feedback from the public, government agencies, and local governments in these policy reviews.

13

Retain options for future land use

Crown land is a public trust. As such, it must be allocated and managed for the benefit not only of the present population, but of future generations. Since the *Land Act* is the central statute dealing with the administration of Crown land in the Province, the Ministry has a responsibility to maintain options for the future use of Crown land.

In accordance with the *Land Act,* the Ministry favours the sale of Crown land only for uses that are of long-term benefit to the Province and that require permanent sites. Where it is in the best public interest to retain land in public ownership, temporary forms of tenure are offered. In so doing, the Ministry maintains possibilities for alternative uses in the future. As social values, preferences, and expectations change, these Crown lands may be able to accommodate new uses and new priorities.

The Ministry ensures future options by structuring lease and licence agreements to allow for reviews of management changes, with possible cancellation of the agreement if the land is not being properly used.

Another way in which the Ministry safeguards its options for future land use is by minimizing any adverse effects from the present uses of Crown land, and by ensuring that the Crown land base is protected and

maintained. As mentioned earlier, aquatic land is held to be particularly important, and is not permanently allocated. The designation of special areas and the establishment of land reserves under the *Land Act* are additional ways the Ministry maintains future options.